

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

LORI RODRIGUEZ

v.

TROOPER PAUL COMESANAS and
SERGEANT ROBERT BOROSKI

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CIV. NO. 3:09CV1182 (HBF)

RULING ON DEFENDANTS' MOTION FOR PROTECTIVE ORDER

This is a civil rights action in which plaintiff alleges unreasonable search and seizure and unreasonable force in effectuating his arrest in violation of his Fourth, Fifth, Eighth and Fourteenth Amendment rights.

Pending is defendants' Motion for Protective Order precluding the plaintiff from seeking testimony or documents "regarding dog bites from other, unrelated incidents involving Trooper Paul Comesanas' assigned State Police canine 'NEO'." [Doc. #34 at 1]. Plaintiff opposes the motion, arguing that the discovery is reasonably calculated to lead to the discovery of admissible evidence pursuant to Fed. R. Civ. P. 26. Specifically, plaintiff alleges,

12. After the plaintiff was handcuffed, after the plaintiff was face down on the sidewalk, and after any possibility of risk of physical harm, of flight, or of disorderliness of any had passed, defendant Paul Comesanas arrived at the

- scene with his dog.
13. At that time, the dog was loosed upon the plaintiff, and was allowed to bite and attack the plaintiff's back, arms, and shoulder.
 29. By virtue of the foregoing, the defendants deprived the plaintiff of his right to be free of intentional infliction of severe emotional distress by means of outrageous conduct.

Compl. ¶¶12, 13, 29. Plaintiff argues that, "Defendant's knowledge of prior bites and attacks of this particular dog is relevant to the plaintiff's claim that the defendant had a 'reckless disregard' for his rights." [Doc. #36 at 3]. Plaintiff notes that he has been waiting for this information for over one year. Id. The Court finds that plaintiff's request is relevant to the allegations contained in the complaint and an appropriate subject for discovery, pursuant to Fed. R. Civ. P. 26(b)(1).

Accordingly, defendants' Motion for Protective Order **[Doc. #34]** is **DENIED**. Counsel will confer and endeavor to agree on a date for the production of the requested information. If an agreement cannot be reached, counsel will contact chambers to request a status conference.

This is not a recommended ruling. This is a discovery ruling and order which is reviewable pursuant to the "clearly erroneous" statutory standard of review. 28 U.S.C. § 636 (b)(1)(A); Fed. R. Civ. P. 6(a), 6(e) and 72(a); and Rule 2 of the Local Rules for United States Magistrate Judges. As such, it

is an order of the Court unless reversed or modified by the district judge upon motion timely made.

SO ORDERED at Bridgeport this 5th day of October 2011.

_____/s/_____
HOLLY B. FITZSIMMONS
UNITED STATES MAGISTRATE JUDGE